



Miedel & Mysliwiec LLP

March 28, 2021

**VIA ECF**

The Honorable Mary Kay Vyskocil  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

**Re:     *United States v. Victor Martinez, 20 Cr. 213 (MKV)***

Dear Judge Vyskocil:

I am appointed to represent Mr. Martinez in the above-captioned case pursuant to the Criminal Justice Act. On March 2, 2021, Your Honor accepted Mr. Martinez's plea of guilty to Count 4 of the S1 indictment and ordered that he and his counsel should coordinate for Mr. Martinez to surrender himself "within two weeks of his interview in connection with his Pre-Sentence Report." Mr. Martinez and I conducted his Pre-Sentence Interview on March 15, 2021, and pursuant to the Court's order, Mr. Martinez must surrender by March 29, 2021. I write to respectfully request that the Court postpone Mr. Martinez's surrender date until after the Court sentences him.

The reasons for this request include that incarceration during the pandemic remains more harsh than usual because of the frequently occurring lockdowns, lack of normal availability for in-person family visits, and other circumstances. Mr. Martinez has a five-year old child. Being unable to visit with his girlfriend and child in person is a situation that will change for the better when the pandemic subsides. Remaining at liberty will allow Mr. Martinez to continue seeing his child in-person and assist with parenting responsibilities until the time that he is sentenced.

In addition, Mr. Martinez has not yet been vaccinated against COVID-19. He is 27 years old and is not currently eligible for the vaccine in New York State. According to the NYC Department of Health, however, "[t]he vaccine is expected to be widely available to all New Yorkers by mid-2021."<sup>1</sup> Mr. Martinez is continuing to educate himself about the safety of the various vaccines and review ongoing information about his eligibility.

For these reasons, Mr. Martinez respectfully asks that the Court permit him to voluntarily surrender himself to BOP custody after the Court sentences him.

The Government, through AUSA Allison Nichols, objects to this request. Ms. Nichols informed me that the government does not consider the COVID-19 pandemic alone an

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<sup>1</sup> See NYC Health, "COVID-19: Vaccine Eligibility," available at <https://www1.nyc.gov/site/doh/covid/covid-19-vaccine-eligibility.page> (last accessed March 28, 2021).

extraordinary factor warranting post-guilty plea bail, and that he is likely to have an option to be vaccinated more quickly if he is in BOP custody.

Thank you for the Court's consideration of this letter motion.

Respectfully submitted,

\_\_\_\_\_/s\_\_\_\_\_  
Aaron Mysliwiec  
*Attorney for Victor Martinez*